

REMARKS

Applicants provide the following information and remarks responsive to the requests made in paragraph 3 of the 37 C.F.R. §1.105 Communication as known and readily obtained by Applicants pursuant to this section:

(i) The parents from which corn variety LH360 was developed are designated LH242 and LH228. Lines LH242 and LH228 are believed to have been on sale or in public use as of the filing date and thus “publicly available” as that term is used in the Request. Applicants understand this term to refer to whether the parent plants had been on sale or in public use as of the priority date of the current application. Clarification is respectfully requested if this interpretation is not what was intended.

(ii) Corn variety LH360 was developed from the single cross LH242 x LH228 by selfing and using the pedigree system of plant breeding. Yield, stalk quality, root quality, disease tolerance, late plant greenness, late plant intactness, ear retention, pollen shedding ability, silking ability and corn borer tolerance were the criteria used to determine the rows from which ears were selected.

(iii) LH242 and LH228 are both proprietary field corn inbred lines of Holden's Foundation Seeds, LLC. In 1997, an application was made for plant variety protection of LH242. LH242 was awarded PVP certificate #9700076 on May 29, 1998. A utility patent was also applied for covering LH242, and issued as U.S. Patent No. 5,750,850 on May 12, 1998. In 1997, an application was made for plant variety protection of LH228, and PVP certificate #9700080 was awarded on May 29, 1998. A utility patent was also applied for protecting LH228, and issued as U.S. Patent No. 5,767,341 on June 16, 1998. The extent of disclosure of progeny of LH242 and LH228 is provided under item (iv).

(iv) At or before the time of filing of the instant application there are believed to have been no other disclosed corn lines produced using said method and said parental corn lines.

CONCLUSION

This is submitted to be a complete response to the referenced Communication. In conclusion, Applicant submits that the present case is in condition for allowance and such favorable action is respectfully requested.

The Examiner is invited to contact the undersigned at (512) 536-3085 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,

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